



September 30, 1999

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR99-2764

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128848.

The City of Mesquite received a request for a "call sheet" of a specified date regarding a stolen vehicle at a specified location. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108 and 552.130 of the Government Code.

Section 552.108(a)(2) excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor
that deals with the detection, investigation, or prosecution of crime . . .
if:

. . . .

(2) it is information that deals with the detection,
investigation, or prosecution of crime only in relation to an
investigation that did not result in conviction or deferred
adjudication[.]

You advise that the requested information pertains to an investigation which did not result in conviction or deferred adjudication. Based on your representations, we conclude that you may withhold most of the requested information under section 552.108(a)(2).

We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536

S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of an offense report. Gov't Code § 552.108(c); see Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

You claim that some of such "basic information" should not be released pursuant to the informer's privilege under section 552.101.¹ See *Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); Open Records Decision Nos. 582 (1990), 515 (1988). The informer's privilege does not categorically protect from release the identification and description of a complainant, which is front page offense report information generally considered public by *Houston Chronicle*. See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 187 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).² The identity of a complainant, whether an "informant" or not, may only be withheld upon a showing that special circumstances exist.

We have addressed several special situations in which front page offense report information may be withheld from disclosure. For example, in Open Records Decision No. 366 (1983), this office agreed that the statutory predecessor to section 552.108 protected from disclosure information about an ongoing undercover narcotics operation, even though some of the information at issue was front page information contained in an arrest report. The police department explained how release of certain details would interfere with the undercover operation, which was ongoing and was expected to culminate in more arrests. Open Records Decision No. 366 (1983); see Open Records Decision No. 333 at 2 (1982); cf. Open Records Decision Nos. 393 (1983) (identifying information concerning victims of sexual assault), 339 (1982), 169 at 6-7 (1977), 123 (1976).

Based upon the information provided to this office, we do not believe that you have shown special circumstances sufficient to overcome the presumption of public access to the complainant's identity. Such information may not be withheld under the informer's privilege.

Section 552.101 also protects information made confidential by statute. Section 772.318 of the Health and Safety Code makes caller telephone numbers and addresses furnished by computerized 9-1-1 service suppliers or business service users confidential. See Open

¹Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

²The informer's privilege protects from disclosure the identity of an informant, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1998), 208 at 1-2 (1978).

Records Decision No. 649 (1996). To the extent that the information at issue here includes caller addresses or telephone numbers furnished by a service supplier or business service user under Health and Safety Code chapter 772, subchapter D, of which section 772.318 is a part, we agree that such originating telephone numbers and addresses are confidential and must be withheld.³

Also, some of the submitted information is protected by section 552.130 of the Government Code. Section 552.130 provides in relevant part as follows:

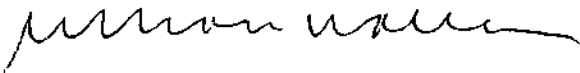
(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

The records at issue contain information subject to section 552.130. We have marked the information the city must withhold under that section.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

³Open Records Decision No. 649 (1996) notes that of subchapters B, C, D, and E of chapter 772, "Local Administration of Emergency Communications," subchapters B, C, and D contain identical confidentiality provisions. See Health & Safety Code §§ 772.118, 772.218, 772.318. Subchapter E, however -- "Emergency Communication Service: Counties with Population over 1.5 Million" -- contains no such confidentiality provision.

Ref: ID# 128848

Encl. Submitted documents

cc: Ms. Charlotte Turner
3341 Carribean Drive
Mesquite, Texas 75150
(w/o enclosures)